

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

NOV 04 2011

Stephan Harris, Clerk
Cheyenne

Martin J. Manzanares, Plaintiff *pro se*

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OUR FILE NO. 2011-00176

FOR THE PLAINTIFF

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

MARTIN J. MANZANARES,

)
) **DOCKET NO. 2:2011-CV-344-F**

Plaintiff,

)

)

vs.

)

)

NETSPEND CORPORATION,

)

)

Defendants.

)

CIVIL COMPLAINT

COMES NOW, Plaintiff Martin J. Manzanares, *pro se*, and for his Complaint against the Defendant states and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff, Martin J. Manzanares, is and was so at all times relevant to this Complaint a resident of Laramie County, Wyoming. Mr. Manzanares' address is P.O. Box 1653, Cheyenne, Wyoming 82003, and his phone number is (307) 222-9694.

2. Defendant, NetSpend Corporation, is and was so at all times relevant to this Complaint a private entity based out of Austin, Texas, but doing business in Wyoming as a prepaid debit card company. Defendant's address is PO Box 2136, Austin, Texas 78768, and their phone number is (866) 387-7363. NetSpend Corporation is sued in their individual and official capacity.

3. The amount in controversy exceeds the jurisdictional minimum of this Court and venue in the United States District Court for the District of Wyoming is proper because the acts or omissions that form the basis for Plaintiff's claims occurred entirely within this district.

BACKGROUND FACTS

4. On or About April 16, 2011 the Plaintiff activated his NetSpend pre-paid Visa Debit Card , account number 4039 9522 5809 2278 and loaded about \$125.00 onto his card.

5. On or about April 21, 2011 the Plaintiff's employer RMP, LLP issued a direct payroll deposit in the amount of \$940.00 onto the Plaintiff's NetSpend pre-paid Visa Debit Card ending in 2278.

6. On or about April 22, 2011, Defendant placed a lock on the Plaintiff's card and refused to unlock said card, after several telephone calls and faxing of documents.

7. Defendant claims that the freeze was placed on the account to ensure that the Plaintiff was not the victim of fraud. Plaintiff's prior employer also called NetSpend to verify that the funds were placed on the Plaintiff's account and that the funds were an authorized payment.

8. On or about June 20, 2011, Plaintiff's prior employer reversed the credit because of the Defendant's unwillingness to release the freeze on the account and paid the Plaintiff by check.

9. As of the date of filing this Complaint, NetSpend has retained \$125.00 of a cash post made directly by the Plaintiff and Defendant has refused to return the money or unlock the card.

10. Defendant has stolen money from the Plaintiff and has committed bank card fraud.

11. From the evidence on record, it appears to the Plaintiff that the Defendant

COUNT 1: UNLAWFUL BANKING PRACTICES

12. Defendant has been using unlawful banking practices by taking consumer funds and then locking debit cards with the intent to defraud the unsuspecting consumer.

13. Defendant has been contacted *multiple* times regarding this matter and has been requested by the Plaintiff to release the funds that was a cash deposit and the Defendant has refused to do so.

14. Defendants took items, specifically cash, which they had no legal right to seize.

COUNT 2: UNLAWFUL RETENTION OF PROPERTY

15. Defendant has unlawfully retained property they have no legal right to retain, even after lawful demand for the return of that property has *repeatedly* been made.

16. Defendant has unlawfully retained the Plaintiff's financial property for more than seven (7) months and has refused to return said money, even after it was determined that the cash was placed on the card legitimately by the Plaintiff.

17. Plaintiff has made more than one verbal demand for the return of said items and the Defendant has refused to respond to said demands.

24. Plaintiff has made more than one written demand for the return of said money and the Defendant s' has refused to respond to said demands.

WHEREFORE, the Plaintiff prays as follows:

1. For judgment in favor of the Plaintiff in the amount of \$100,000.00 to compensate him for his personal injuries, and such other compensatory damages which the Court or a jury may properly award in accordance with the evidence at the trial of this matter;
2. For punitive damages against the Defendant in an amount sufficient to punish them for their malicious, willful and wanton conduct, to publicly condemn their actions and to serve as a warning and deterrent to others similarly situated, which such amount shall not be less than \$100,000.00;
3. For judgment against the Defendant ordering for the return of all seized property to the Plaintiff immediately; and
4. For Plaintiff's costs in bringing this action, including but not limited to, his reasonable attorney's fees, process of service fees, filing fees and such other and further relief as the Court may deem appropriate under the circumstances.

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DATED this 04 day of November, 2011.



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